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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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24314	7590	08/29/2005	EXAMINER	
JANSSON, SHUPE & MUNGER & ANTARAMIAN, LTD 245 MAIN STREET RACINE, WI 53403			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 08/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,616

Applicant(s)

FASNACHT, JEFFREY

Examiner

David J. Parsley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 27-33 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 27-33 and 35-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 6-27-05 and this action is final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 15, 27-30, 33, 35-36, 39-40, 42-43 and 46 are rejected under 35 U.S.C.

103(a) as being unpatentable over U.S. Patent No. 6,601,336 to Link in view of U.S. Patent No. 5,253,446 to Ogle.

Referring to claims 1, 3, 29 and 39, Link discloses a spinnerbait lure having a frame – at 22,24,60, or 92,94, the frame having upper and lower arms – at 22,24 or at 92,94, extending divergently from a frame-vertex – at 60 or at the junction of 92,94 as seen in figure 10, in a predetermined shape in a non-stressed condition – see for example figures 4 and 10, the shape having the arms in a substantially fixed configuration with one another – see for example figures 4 and 10, with at least one blade – at 38, and a jig – at 52-70 or 90, secured to the frame – see for

example figures 4 and 10, the improvement wherein the frame is formed of an integral length of material being selected such that the frame always retains the original configuration absent force-induced flexing sufficient to break the frame – see for example figures 4 and 10 and the jig is embedded in the frame – see for example figures 4 and 10. Link in the embodiments of figures 4 and 10, does not disclose the frame is formed of a polymeric material. Ogle does disclose the frame – at 12-16, is formed of a polymeric material – see for example column 4 lines 20-34. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link and add the polymeric material of Ogle, so as to allow for the device to be made of differing colors attractive to fish. Link as modified by Ogle further discloses a fishing line/leader is attachable with respect to the frame substantially adjacent to the frame-vertex – see for example at 10 in figure 1 of Link and – at 20 in figure 1 of Ogle.

Referring to claim 2, Link as modified by Ogle further discloses the frame is dimensioned to exhibit durability and vibratory action during fishing – see for example figures 4 and 10 of Link and figure 1 of Ogle.

Referring to claim 4, Link as modified by Ogle further discloses the upper arm is substantially coplanar with the lower arm – see for example – at 22 in figure 4 of Link, - at 92,94 in figure 10 of Link and – at 12 in figure 1 of Ogle.

Referring to claim 15, Link as modified by Ogle further discloses the polymeric material has color – see for example column 4 lines 20-34 of Ogle.

Referring to claims 27-28, Link as modified by Ogle further discloses the lower arm has a lower distal end – see for example figure 4 of Link, the jig head – at 52,61,62, is embedded within the lower distal end – see for example figure 4 of Link, the jig head has a jig proximal end

– see for example figure 4 of Link, and the lower arm is substantially tapered – at 24, adjacent to the jig proximal end – see for example figure 4, whereby stresses upon the lower arm from deflection at the lower distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Referring to claim 30, Link as modified by Ogle further discloses the upper arm defines an upper aperture – at 24, to attach the blade – at 38, with respect to the frame – see for example figure 4 of Link.

Referring to claim 33, Link as modified by Ogle further discloses the frame is formed in a molding process – see for example column 4 lines 20-34 of Ogle.

Referring to claim 35, Link as modified by Ogle further discloses the frame is dimensioned such that the frame exhibits resilience during fishing – see for example figures 4 and 10 of Link and figure 1 of Ogle.

Referring to claim 36, Link as modified by Ogle further discloses at least the upper arm has an oblong cross-section – at 24 as seen in figure 4 of Link, thereby imparting a preferential directionality to vibration of the upper arm – see for example figure 4 of Link.

Referring to claim 40, Link as modified by Ogle further discloses at least the upper arm – at 22,24, has an oblong cross-section – at 24, thereby imparting a preferential directionality to vibration of the upper arm – see for example figure 4 of Link.

Referring to claim 46, Link as modified by Ogle further discloses a metal body embedded within the frame – see for example figures 4 or 10 of Link and column 4 lines 20-34 of Ogle.

Referring to claim 42, Link as modified by Ogle further discloses the metal body is a jig – at 50-70 of Link, the lower arm has a lower distal end – see figure 4 of Link, the jig has a jig

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head – at 50-62, and a hook – at 70, and the jig head is embedded within the lower distal end – see for example figure 4 of Link.

Referring to claim 43, Link as modified by Ogle further discloses the jig head has a jig proximal end – see for example figure 4 of Link, and the lower end is substantially tapered – at 24, adjacent to the jig proximal end, whereby stresses upon the arm from deflection at the distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Claims 5-13, 37-38 and 41, are rejected under 35 U.S.C. 103(a) as being unpatentable over Link as modified by Ogle as applied to claims 4, 36 or 40 above, and further in view of U.S. Patent No. 4,640,040 to Smith.

Referring to claim 5, Link as modified by Ogle does not disclose at least the upper arm has an oblong cross section, thereby imparting a preferential directionality to vibration of the upper arm. Smith does disclose the upper arm – at 12, has an oblong cross-section – see for example figures 1-2 and 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the upper arm of oblong cross section of Smith, so as to allow for objects to be movably connected to the frame.

Referring to claim 6, Link as modified by Ogle and Smith further disclose the upper arm – at 12 of Smith, has an upper distal end and the cross section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end – see for example figures 1-2 and 6 of Smith.

Referring to claim 7, Link as modified by Ogle and Smith further discloses the cross-section of the upper arm has two dimensions, the greater dimension of the cross section of the upper arm is in the plane of the frame – see for example figures 1-2 and 6 of Smith.

Referring to claim 8, Link as modified by Ogle and Smith further discloses the frame vertex defines a line-aperture – at the forward portion 12 of Ogle, whereby a fishing line/leader is attachable with respect to the frame at the line aperture – see for example figure 1 and column 3 lines 53-61 of Ogle.

Referring to claim 9, Link as modified by Ogle and Smith further discloses the frame is curved at the frame vertex – see for example figures 4 and 10 of Link and figure 1 of Ogle.

Referring to claim 10, Link as modified by Ogle and Smith further discloses the lower arm has a lower distal end and the jig is embedded within the lower arm at the lower distal end – see for example figures 1, 4 and 10 of Link.

Referring to claim 11, Link as modified by Ogle and Smith further discloses the jig has a jig head – at 52,62 in figure 4 of Link, and a hook – at 70 in figure 4 of Link, and the jig head is embedded within the lower distal end – see for example figures 1 and 4 of Link.

Referring to claim 12, Link as modified by Ogle and Smith further discloses the jig head – at 52,62 in figure 4 of Link, has a jig proximal end – see figure 4, and the lower arm – at 22, is substantially tapered – at 24, adjacent to the jig proximal end, whereby stresses upon the arm from deflection at the distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Referring to claim 13, Link as modified by Ogle and Smith further discloses the upper arm defines an upper aperture – at the interior of 24, to attach the blade – at 38, with respect to the frame – see for example figure 4 of Link.

Referring to claim 37, Link as modified by Ogle does not disclose the upper arm has an upper distal end and the cross-section of the upper arm has an area that progressively decreases

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from the frame vertex toward the upper distal end. Smith does disclose the upper arm – at 12, has an upper distal end and the cross section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end – see for example figures 1-2 and 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the upper arm of Smith, so as to allow for the device to securely and adjustably hold a hook to the frame.

Referring to claim 38, Link as modified by Ogle and Smith further discloses the cross section of the upper arm – at 22 of Link or – at 12 of Smith, has two dimensions, the greater dimension being in the plane of the frame – see for example figure 4 of Link and figure 1 of Smith.

Referring to claim 41, Link as modified by Ogle does not disclose the upper arm has an upper distal end and the cross-section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end and the cross section of the upper arm has two dimensions, the greater dimension being in the plane of the frame. Smith does disclose the upper arm – at 12, has an upper distal end and the cross section of the upper arm has an area that progressively decreases from the frame vertex toward the upper distal end – see for example figures 1-2 and 6. Smith further discloses the cross section of the upper arm – at 22 of Link or – at 12 of Smith, has two dimensions, the greater dimension being in the plane of the frame – see for example figure 4 of Link and figure 1 of Smith. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the upper arm of Smith, so as to allow for the device to securely and adjustably hold a hook to the frame.

Referring to claim 7, Ogle and Link as modified by Smith further discloses the greater dimension of the cross section of the upper arm is in the plane of the frame – see for example figures 1-2 and 6 of Smith.

Claims 14, 31-32 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Link as modified by Ogle as applied to claims 2, 30 or 39 above, and further in view of U.S. Patent No. 4,133,134 to Cheng.

Referring to claims 14, 31 and 39, Link as modified by Ogle does not disclose the polymeric material is transparent. Cheng does disclose the polymeric material – at 10, is transparent – see for example column 2 lines 42-56. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the polymeric material being transparent of Cheng, so as to allow for the interior of the polymeric material to be visible.

Referring to claims 32 and 45, Link as modified by Ogle and Cheng further discloses the polymeric material has color – see for example column 4 lines 20-34.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Link as modified by Ogle as applied to claim 15 above, and further in view of U.S. Patent No. 6,226,917 to Sylla et al.

Referring to claim 16, Link as modified by Ogle does not disclose the polymeric material comprises polycarbonate. Sylla et al. does disclose the polymeric material – at 14,16, comprises polycarbonate – see for example column 3 lines 50-56. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Link as modified by Ogle and add the

polymeric material being polycarbonate of Sylla et al., so as to allow for the device to be both lightweight and durable.

Referring to claim 17, Link as modified by Ogle and Sylla et al. further discloses a fishing line/leader is attachable with respect to the frame substantially adjacent to the frame-vertex – see for example figures 1 and 4 of Link and figure 1 of Ogle.

Referring to claim 18, Link as modified by Ogle and Sylla et al. further discloses the jig has a jig-head – at 52,61,62, and a hook – at 70, the jig head is embedded within the lower arm – see for example figures 1 and 4 of Link.

Referring to claim 19, Link as modified by Ogle and Sylla et al. further discloses the upper arm defines an upper aperture – at 24, to attach the blade – at 38, with respect to the frame – see for example figure 4 of Link.

Referring to claim 20, Link as modified by Ogle and Sylla et al. further discloses the lower arm has a lower distal end – see for example figure 4 of Link, the jig head – at 52,61,62, is embedded within the lower distal end – see for example figure 4 of Link, the jig head has a jig proximal end – see for example figure 4 of Link, and the lower arm is substantially tapered – at 24, adjacent to the jig proximal end – see for example figure 4, whereby stresses upon the lower arm from deflection at the lower distal end are diffused throughout the lower arm – see for example figure 4 of Link.

Response to Arguments

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3. Regarding claim 1, the Link reference US 6601336 does disclose a jig – at either of 52-70 as seen in figure 4 or – at 90 as seen in figure 10, embedded in a frame – at 22,24 in figure 4 or – at 92-94 in figure 10. As seen in figure 4, the jig – at 52, at its one end is embedded into the recessed portion – at 24 and in figure 10, the jig – at 90 has a large spherical front end with a long cylindrical rear end with the cylindrical rear end being embedded into the frame portion – at 92. Further, the Link reference discloses the frame having upper and lower arms – at 22 and 24 as seen in figure 4 and – at 92 and 94 as seen in figure 10. Applicant argues that the frame – at 22,24 in figure 4, does not have a predetermined shape in that it is made of an elastomeric material which is flexible to move into any desired orientation. However, as seen in figure 4 the frame arms – at 22 and 24 are chosen to be cylindrically shaped over other shapes and therefore are in a predetermined shape related to the design of the device. Therefore, the frame – at 22,24 maintains its desired shape given any stress on the frame of the device. Further, in relation to the embodiment of figure 10 of the Link reference discloses a first arm – at 92 and a second arm – at 94. The term arm is a broad term and it is deemed that the items 92 and 94 can be construed as arms.

Further, applicant argues that the Ogle reference US 5253446 does not disclose the arms and the frame being formed of plastic/polymer. However, as seen in column 4 lines 20-34 the frame – at 12 and arms – at 12 or 14 or 16, are made of plastic/polymer. As seen in column 3 lines 24-30, the elliptical ring – at 12 of Ogle is described as being a single piece formed of the ring/loop – at 12 and the extension arms – at 16 and 19 and as seen in column 4 lines 20-34, the ring – at 12 is described as being made of plastic/polymer or made of metal coated in plastic/polymer.

Further, applicant argues that there is no motivation to combine the Link and Ogle references. As seen in column 4 lines 25-27 of Ogle, the motivation to use a plastic/polymeric material is to make the lure device of differing colors to be attractive to fish.

Further, applicant argues that replacing the elastomer of the Link reference with the polymer of the Ogle reference would cause the Link reference to not operate in the manner in which it is intended, in that the Link device would lost its ability to have the collar – at 20, to easily snap on or off the lure, and that the polymer would eliminate the flexibility of the arms so that the lure matches a skirt of an artificial bait. However, even if the collar – at 20 is made of a polymer it is deemed that the collar is still capable of being moved onto and off of the jig assembly – at 10 as seen in figure 1, in that polymeric materials can be hard or soft and given sufficient force can be removed from the jig head – at 10. Further, skirts used on fishing lures are known to those of ordinary skill in the art to be made from elastomers or polymers and are typically made very thin so that they have a degree of flexibility not depending on what material they are made of.

Applicant further argues that combination of the Link and Ogle references constitutes improper hindsight analysis. However, it is known to those of ordinary skill in the art that fishing lures are made of elastomeric and polymeric materials and substituting one for the other is deemed to be an obvious variant as seen in paragraph 2 above in this office action.

Regarding claim 2, it is deemed that any fishing lure made of polymers or elastomers is designed to be durable for multiple uses. Further, any fishing lure made of an elastomer or polymer is under the influence of vibratory forces whether the forces of the water acting on the

lure as it is pulled through the water, the forces of any objects in the water contacting the lure or by the forces of the fish when it strikes the lure.

Regarding claims 3 and 17, the Link reference discloses the fishing line attached at the front end – at 10 is substantially adjacent – the frame vertex – at 20 as seen in figure 1, where the jig-head – at 10 is not of a sufficiently large size and therefore the fishing line and frame vertex are located adjacent one another. The Ogle reference discloses a frame reference at the attachment point on item – 12 which connects to 20a as seen in figure 1, with the vertex adjacent a fishing line which attaches to item – 20 which is directly between the line and the vertex as seen in figure 1 and thus the fishing line is located near/adjacent the frame vertex of item – 12.

Regarding claims 11, 18, 27-28 and 42, the Link reference discloses the jig head – at 50-52, imbedded within the distal end of the lower arm – at either 22 or 24, of the frame – at 20-24 as seen in figure 4, and a hook – at 70, as seen in figure 4.

Regarding claims 35-36 and 40, the Ogle and Link references both disclose the frame is dimensioned to exhibit flexing resilience – see for example the elastomeric material of Link and figure 1 of Ogle where the device is made of a thin material which is therefore flexible when used in water.

Regarding claim 39, the Link reference US 6601336 does disclose a jig – at either of 52-70 as seen in figure 4 or – at 90 as seen in figure 10, embedded in a frame – at 22,24 in figure 4 or – at 92-94 in figure 10. As seen in figure 4, the jig – at 52, at its one end is embedded into the recessed portion – at 24 and in figure 10, the jig – at 90 has a large spherical front end with a long cylindrical rear end with the cylindrical rear end being embedded into the frame portion – at 92. Further, the Link reference discloses the frame having upper and lower arms – at 22 and 24

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as seen in figure 4 and – at 92 and 94 as seen in figure 10. Applicant argues that the frame – at 22,24 in figure 4, does not have a predetermined shape in that it is made of an elastomeric material which is flexible to move into any desired orientation. However, as seen in figure 4 the frame arms – at 22 and 24 are chosen to be cylindrically shaped over other shapes and therefore are in a predetermined shape related to the design of the device. Therefore, the frame – at 22,24 maintains its desired shape given any stress on the frame of the device. Further, in relation to the embodiment of figure 10 of the Link reference discloses a first arm – at 92 and a second arm – at 94. The term arm is a broad term and it is deemed that the items 92 and 94 can be construed as arms.

Further, applicant argues that the Ogle reference US 5253446 does not disclose the arms and the frame being formed of plastic/polymer. However, as seen in column 4 lines 20-34 the frame – at 12 and arms – at 12 or 14 or 16, are made of plastic/polymer. As seen in column 3 lines 24-30, the elliptical ring – at 12 of Ogle is described as being a single piece formed of the ring/loop – at 12 and the extension arms – at 16 and 19 and as seen in column 4 lines 20-34, the ring – at 12 is described as being made of plastic/polymer or made of metal coated in plastic/polymer.

Further, applicant argues that there is no motivation to combine the Link and Ogle references. As seen in column 4 lines 25-27 of Ogle, the motivation to use a plastic/polymeric material is to make the lure device of differing colors to be attractive to fish.

Further, applicant argues that replacing the elastomer of the Link reference with the polymer of the Ogle reference would cause the Link reference to not operate in the manner in which it is intended, in that the Link device would lost its ability to have the collar – at 20, to

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easily snap on or off the lure, and that the polymer would eliminate the flexibility of the arms so that the lure matches a skirt of an artificial bait. However, even if the collar – at 20 is made of a polymer it is deemed that the collar is still capable of being moved onto and off of the jig assembly – at 10 as seen in figure 1, in that polymeric materials can be hard or soft and given sufficient force can be removed from the jig head – at 10. Further, skirts used on fishing lures are known to those of ordinary skill in the art to be made from elastomers or polymers and are typically made very thin so that they have a degree of flexibility not depending on what material they are made of.

Applicant further argues that combination of the Link and Ogle references constitutes improper hindsight analysis. However, it is known to those of ordinary skill in the art that fishing lures are made of elastomeric and polymeric materials and substituting one for the other is deemed to be an obvious variant as seen in paragraph 2 above in this office action.

Further, it is deemed that any fishing lure made of polymers or elastomers is designed to be durable for multiple uses. Further, any fishing lure made of an elastomer or polymer is under the influence of vibratory forces whether the forces of the water acting on the lure as it is pulled through the water, the forces of any objects in the water contacting the lure or by the forces of the fish when it strikes the lure.

Further, the Link reference discloses the fishing line attached at the front end – at 10 is substantially adjacent – the frame vertex – at 20 as seen in figure 1, where the jig-head – at 10 is not of a sufficiently large size and therefore the fishing line and frame vertex are located adjacent one another. The Ogle reference discloses a frame reference at the attachment point on item – 12 which connects to 20a as seen in figure 1, with the vertex adjacent a fishing line which attaches

to item – 20 which is directly between the line and the vertex as seen in figure 1 and thus the fishing line is located near/adjacent the frame vertex of item – 12.

Regarding claim 5, the Smith reference US 4640040 does disclose arms – at 12, with oblong cross-sections as seen in figure 1. The motivation to combine the references is found in the knowledge of those of ordinary skill in the art and is found above in paragraph 2 above in this office action. Further, having objects movably connected to the arms of the frame would not hinder the connection of the collar – at 20 of Link to the jig – at 10 as seen in figure 1. Objects connected to the arms of Link – at 22,24 when connected at various positions of the arms would not interfere with the connection of the collar – at 20 to the jig – at 10 given the length of the arms – at 22 and 24 as seen in figure 4.

Regarding claims 6, 37 and 41, the Smith reference discloses a frame vertex – at 11 with the cross section of the arm – at 12, progressively decreasing from the vertex as seen in figure 1 and the fishing line attached – at 16, is adjacent the vertex – at 11 as seen in figure 1.

Regarding claims 7, 38 and 41, the Smith reference discloses the greatest dimension of the cross section being the section of item 12 proximate item 11 as seen in figure 1, is in the plane of the frame in that the greatest dimension of the cross-section is a portion of the frame and therefore the frame itself must be in a plane in which one of its components is located.

Regarding claim 11, applicant has not specifically defined the term hook in the disclosure and as seen in figure 4 of Link item – 70 is a hook in that it hooks the spinner blade – at 38 to the jig assembly – at 50-72.

Regarding claims 14, 31-32 and 44-45, the Cheng reference US 4133134 discloses a frame – at 10 is made of a transparent material as seen in column 2 lines 42-56. The combination

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of the Link and Ogle references teaches the use of polymeric materials in fishing lures as seen in reference to claim 1 above and the Cheng reference discloses a fishing lure device with a further transparent property of the polymeric material. Therefore, given the similar nature of the devices in that they are all used to catch fish and given the common teachings of the use of polymeric materials it is deemed that it would have been obvious to one of ordinary skill in the art to use one type of polymer for another.

Regarding claims 32 and 45, all objects have some form of color and therefore simply stating that a device has no color is not persuasive.

Regarding claims 16 and 18, the Sylla et al. reference US 6226917 discloses a frame – at 14-16 is made of a polycarbonate material as seen in column 3 lines 50-56. The combination of the Link and Ogle references teaches the use of polymeric materials in fishing lures as seen in reference to claim 1 above and the Sylla et al. reference discloses a fishing lure device made of a specific polymeric material being polycarbonate. Therefore, given the similar nature of the devices in that they are all used to catch fish and given the common teachings of the use of polymeric materials it is deemed that it would have been obvious to one of ordinary skill in the art to use any one type of polymer in the device of Link as modified by Ogle.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DP

David Parsley
Patent Examiner
Art Unit 3643

Peter M. Poon

PETER M. POON
SUPERVISORY PATENT EXAMINER

8/24/05